



PRESENT:

Mr. Daniel A. Gecker, Chairman
Mr. Russell J. Gulley, Vice Chairman
Mr. Jack R. Wilson, III
Mr. F. Wayne Bass
Mr. Kirkland A. Turner, Secretary to the Commission,
Planning Director

ABSENT:

Mr. Sherman W. Litton

ALSO PRESENT:

Mr. Glenn E. Larson, Assistant Director, Advance Planning
and Research and Information Section, Planning Department
Ms. Beverly F. Rogers, Assistant Director, Zoning and
Special Projects Section, Planning Department
Mr. Robert V. Clay, Planning and Special Projects Manager,
Zoning and Special Projects Section, Planning Department
Ms. Jane Peterson, Planning and Special Projects Manager,
Zoning and Special Projects Section, Planning Department
Ms. Darla W. Orr, Planning and Special Projects Manager,
Zoning and Special Projects Section, Planning Department
Ms. Teresa C. Davis, Planning and Special Projects Coordinator,
Zoning and Special Projects Section, Planning Department
Ms. Barbara L. Fassett, Planning Administrator, Advance Planning
and Research Section, Planning Department
Mr. James K. Bowling, Principal Planner, Advance Planning
and Research Section, Planning Department
Ms. Linda N. Lewis, Administrative Assistant, Administration
Section, Planning Department
Ms. Deanna D. Atkins, Administrative Secretary,
Administrative Section, Planning Department
Ms. Michelle L. Martin, Secretary, Administrative Section,
Planning Department
Mr. David W. Robinson, Assistant County Attorney,
County Attorney's Office

Mr. Allan M. Carmody, Director,
Budget and Management Department
Mr. R. John McCracken, Director,
Transportation Department
Mr. Richard M. McElfish, Director,
Environmental Engineering Department
Mr. Scott Flanigan, Water Quality Manager,
Environmental Engineering Department
Mr. Randolph Phelps, Senior Engineer,
Utilities Department
Assistant Fire Marshal John P. Jones,
Fire Department
Dr. Mike Etienne, Communications Specialist,
Planning Department, School Administration

ASSEMBLY AND WORK SESSION

Messrs. Gecker, Gulley, Wilson, Bass and staff assembled at 6:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building to consider the following:

- I. **INVOCATION.**
- II. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.**
- III. **REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**
- IV. **REVIEW MEETING PROCEDURES.**
- V. **CITIZEN COMMENTS ON UNSCHEDULED MATTERS.**
- VI. **REZONINGS AND CONDITIONAL USES – OTHER (FROM RECESSED MEETING ON JULY 17, 2007).**
- VII. **COMPREHENSIVE PLAN AMENDMENT.**
 - ♦ **PROPOSED UPPER SWIFT CREEK PLAN AMENDMENT AND RELATED ORDINANCES.**
- VIII. **CITIZEN COMMENTS ON UNSCHEDULED MATTERS – CONTINUED.**
- IX. **ADJOURNMENT.**

Mr. Gecker reconvened the Planning Commission meeting at 6:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building. He stated, due to the adverse weather/power outage that occurred Tuesday evening, the Commission recessed their meeting to 6:00 p. m. on Thursday, July 19, 2007. He stated the advertised notice for the "carryover" meeting provided that any public hearings on cases carried over would be heard Thursday at 7:00 p.m. and, consequently, no public hearing on any case could begin before 7:00 p.m. He added, moreover, because the public meeting was adjourned to 6:00 p.m. on Thursday, it was necessary to call the meeting to order at that time; conduct business, if so desired by the Commission, on any other item that did not require a public hearing (such as the citizen comment period, a work session, etc.); and recess the meeting to 7:00 p.m.

I. INVOCATION.

Mr. Wilson presented the invocation.

II. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.

Mr. Gulley led the Pledge of Allegiance to the Flag.

III. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

Mr. Bass requested that Case 07SN0152, Patricia H. Patton and Michael and Myrna T. McCaffery, be deferred to the August 21, 2007, Planning Commission public hearing.

Mr. Gecker suggested the agenda be amended/reordered to add a category to the 7:00 p. m. Public Hearing for Deferral by Applicant and move Case 07SN0152, Patricia H. Patton and Michael and Myrna T. McCaffery, to that category to be considered prior to Rezoning and Conditional Uses – Other.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission amended the agenda to add a category to the 7:00 p. m. Public Hearing for Deferral by Applicant and move Case 07SN0152, Patricia H. Patton and Michael and Myrna T. McCaffery, to that category to be considered prior to Rezoning and Conditional Uses – Other.

AYES: Messrs. Gecker, Gulley, Wilson and Bass.

ABSENT: Mr. Litton.

IV. REVIEW MEETING PROCEDURES.

Mr. Turner reviewed the meeting procedures.

V. CITIZEN COMMENT ON UNSCHEDULED MATTERS INVOLVING THE SERVICES, POLICIES AND AFFAIRS OF THE COUNTY GOVERNMENT REGARDING PLANNING OR LAND USE.

There were no citizen comments on unscheduled matters at this time.

The Commission recessed at 6:06 p. m. and

The Commission reconvened at 7:00 p. m.

Mr. Gecker reconvened the Planning Commission meeting at 7:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building, noting that, due to the adverse weather/power outage that occurred Tuesday evening, the Commission recessed their meeting to 6:00 p. m. on Thursday, July 19, 2007. He stated the advertised notice for the "carryover" meeting provided that any public hearings on cases carried over would be heard Thursday at 7:00 p.m. and, consequently, no public hearing on any case could begin before 7:00 p.m. He added, moreover, because the public meeting was adjourned to 6:00 p.m. on Thursday, it was necessary to call the meeting to order at that time. He stated, subsequently, the Commission conducted business on other items that did not require a public hearing (such as the citizen comment period, a work session, etc.) and then recessed the meeting to 7 p.m.

VI. CONSIDERATION OF THE FOLLOWING REQUESTS:
◆ REQUEST FOR DEFERRAL BY APPLICANT.

07SN0152: (Amended) In Matoaca Magisterial District, **PATRICIA H. PATTON AND MICHAEL AND MYRNA T. MCCAFFERY** requested deferral to August 21, 2007, for consideration of rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor uses. This request lies on 12.5 acres fronting approximately 1,500 feet on the south line of Hull Street Road approximately 170 feet east of Mockingbird Lane. Tax ID 730-674-7150 and 731-674-2477.

Mr. William Shewmake, the applicant's representative, requested deferral of Case 07SN0152 to the August 21, 2007, Planning Commission public hearing.

No one came forward to speak in favor of, or in opposition to, the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to defer Case 07SN0152 to the August 21, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley, Wilson, Litton and Bass.
ABSENT: Mr. Litton.

07SN0314: In Matoaca Magisterial District, **CARRIE E. COYNER, TRUSTEE** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for conservation: passive recreation and residential use of 2.0 units per acre or less. This request lies on 27.6 acres fronting approximately 200 feet on the west line of Winterpock Road approximately 300 feet south of Bethia Road. Tax ID 721-662-1358.

Ms. Peterson presented a brief overview of the request and staff's recommendation.

Ms. Carrie Coyner, the applicant, accepted staff's recommendation, noting the applicant was in compliance with staff's recommended conditions and asked the Commission to forward a favorable recommendation to the Board of Supervisors.

Mr. Gecker opened the discussion for public comment.

Mr. Lee Hopper, an adjacent property owner, opposed the request, citing concerns relative to the proposal being incompatible with the area *Plan* and area uses; insufficient lot frontage; limited sight distance; drainage; the acquisition of off-site right of way impact area land owners; increased traffic volumes and traffic impacts on Winterpock Road, especially if a connection were made from Winterpock Road through the property to Harper's Mill Subdivision; safety conditions along Winterpock Road; , and potential safety

hazards. He stated other adjacent property owners with who he had spoken also opposed the request and asked the Commission to recommend denial.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Ms. Coyner addressed concerns relative to turn lanes, road improvements, connectivity and the applicant's intent to not cross the area creek, indicating the applicant was agreeable to submitting a proffered condition to preclude access to Harper's Mill Subdivision.

In response to questions from Mr. Bass, Mr. McCracken addressed concerns/answered questions relative to horizontal sight distance, vertical sight distance, off-site improvements, off-site easements to obtain adequate sight distance at any public road intersection on Winterpock Road, road improvements necessary to address safety and accommodate the increase in traffic generated by the development, a parallel road to Winterpock Road, and the location of the proposed *Thoroughfare Plan* road as it impacted the property. He noted, however, the applicant had proffered to contribute cash, in an amount consistent with the Board of Supervisors' Policy, towards mitigating the traffic impact of the development.

Mr. Bass stated he was concerned that additional traffic on Winterpock Road would adversely impact the health, safety and welfare of citizens traveling the road.

Messrs. Gecker and Wilson stated they would be more comfortable with the request if there were a proffered condition precluding a connection across the creek to Harper's Mill.

On motion of Mr. Bass seconded by Mr. Gulley, the Commission resolved to recommend denial of Case 07SN0314.

AYES: Messrs. Gecker, Gulley and Bass.
ABSTENTION: Mr. Wilson.
ABSENT: Mr. Litton.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

07SN0361: In Matoaca Magisterial District, **ROBERT C. SOWERS AND DOUGLAS AND SUSAN SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for conservation: passive recreation and single family residential use of 2.0 units per acre or less. This request lies on 26.2 acres fronting approximately 1,030 feet on the west line of Otterdale Road approximately 3,380 feet north of Genito Road. Tax IDs 713-691-1673 and 8928; and 714-690-1660.

Ms. Orr presented an overview of the request and staff's recommendation for approval, subject to the applicant addressing the transportation concerns.

Ms. Carrie Coyner, the applicant's representative, asked the Commission to forward a recommendation for approval to the Board of Supervisors noting the applicant had met the impact in the area. She indicated

there appeared to be disagreement among some members of the development community and transportation staff as to exactly when the cash proffer contributions for road improvements should be provided, noting she felt the developer should be allowed to hold on to cash proffer contributions rather than providing the cash proffer improvements upfront prior to the occurrence of any development.

Mr. Gecker opened the discussion for public comment.

Ms. Kitty Snow, a Moseley resident, addressed concerns regarding accidents that occur along Otterdale Road, overcrowded schools, road improvements and inadequate fire and emergency services in the area.

Mr. Peter Martin, a resident of Mt. Hermon Road, expressed concerns regarding drainage from the proposed development into the Upper Swift Creek Watershed, the inappropriateness of cluster development in the area and asked the Commission to recommend denial of the request.

There being no one else to speak, Mr. Gecker closed the public comment.

In rebuttal, Ms. Coyner addressed issues relative to density, cluster development and road improvement construction, noting the applicant had agreed to limit development to fifty-two (52) units and that road improvements would be constructed prior to development of the property.

In response to questions from Mr. Bass, Mr. McCracken stated area roads needed to be improved to address safety and accommodate the increase in traffic generated by this development; traffic generated by the development would travel along sections of Otterdale Road that are in extremely poor condition; that although the applicant had proffered to contribute cash, cash proffers alone would not cover the cost of the road improvements needed in the area; that there were no projects in this area currently included in the VDOT Six-Year Improvement Program; and that he preferred road improvements instead of cash contributions. He stated, without a commitment to address the traffic impact of the proposed development on Otterdale Road, the Transportation Department could not support the request.

Mr. Bass stated he felt the request should be deferred for ninety (90) days to allow transportation staff and the applicant to resolve their concerns.

Ms. Coyner stated the applicant did not intend to request the deferral or to revise the proffered conditions and that she, and others, felt the requirement for upfront road improvements was a punishment to the developers.

Mr. Gulley stated a rezoning on Reams Road required road improvements to be provided prior to recordation of the subdivision and why could that same approach not be applied to Otterdale Road.

Mr. Wilson stated it appeared the applicant was unwilling to further discuss the issues and suggested the request be forwarded with a recommendation for denial.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission, on their own motion, resolved to defer Case 07SN0361 to the October 16, 2007, Planning Commission public hearing.

AYES: Messrs. Gecker, Gulley and Bass.

NAYS: Mr. Wilson.

ABSENT: Mr. Litton.

07SN0298: In Dale Magisterial District, **KEVIN L. FLOYD PE, LS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-15). Residential use of up to 2.90 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1-5 acre lots, suited to R-88 zoning. This request lies on 51.2 acres fronting approximately 690 feet on the north line of Beach Road approximately 630 feet west of Gates Bluff Drive. Tax IDs 763-661-Part of 7607 and 764-662-Part of 3891 and 7481.

Ms. Orr presented an overview of the request and staff's recommendation for approval of the rezoning but denial of the waiver to street connectivity requirements to Heathside Drive.

Mr. Jim Theobald, the applicant's representative, accepted staff's recommendation for approval of the rezoning but did not accept the recommendation for denial of the waiver to street connectivity requirements to Heathside Drive, noting area residents opposed the connectivity requirement.

Mr. Gecker opened the discussion for public comment.

Mr. Steve Langford, representing the Gates Bluff Homeowners Association, voiced support for approval of the waiver to street connectivity to Heathside Drive.

There being no one else to speak, Mr. Gecker closed the public comment.

On motion of Mr. Wilson, seconded by Mr. Gecker, the Commission resolved to recommend approval of Case 07SN0298 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

The Developer (the "Developer") in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for himself and his successors or assigns, proffers that the development of the property known as Chesterfield County Tax Identification Numbers 764-662-3891, 763-661-7607 and 764-662-7481 (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-15 is granted. In the event the request is denied or approved with conditions not agreed to by the Developer, the proffers and conditions shall be immediately be null and void and no further force or effect.

1. Cash Proffer. For each dwelling unit developed, the applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of a building permit for each dwelling for infrastructure improvements within the service district for the Property:
 - a. \$15,600 per dwelling unit if paid prior to July 1, 2007; or
 - b. The amount approved by the board of Supervisors not to exceed \$15,600 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made after June 30, 2007.
 - c. Cash proffer payments shall be spent for purposes proffered or as otherwise permitted by law.

- d. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the County. (B&M)
2. Dwelling Size. One- (1) story dwelling units shall have a minimum gross floor area of 2000 square feet, and dwellings with more than one (1) story shall have a minimum gross floor area of 2500 square feet. (P)
3. Density. No more than thirty-eight (38) dwelling units shall be developed on the Property. (P)
4. Minimum Lot Size. Lots shall be a minimum of 30,000 square feet in size. (P)
5. No Access. No lots shall have vehicular access through Gates Bluff Subdivision. (P)
6. Transportation.
- a. Prior to any site plan approval, in conjunction with recordation of the initial subdivision plat, or within sixty (60) days from a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way along the northern side of Beach Road, measured from the centerline of that part of Beach Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County.
- b. The developer shall provide the following improvements with initial development of the Property:
- i. Construction of additional pavement along Beach Road at the approved public road intersection to provide a right turn lane;
- ii. widening/improving the north side of Beach Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder and overlaying the full width of the road with one and one half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire Property frontage; and
- iii. dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire the "off-site" right-of-way that is necessary for the road improvements described in this Proffered Condition, the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in

acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road improvements within available right-of-way as determined by the Transportation Department.

- c. Direct vehicular access from the Property to Beach Road shall be limited to one (1) public road located at the western property line. (T)
7. Timbering. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the removal of dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
8. Notification of Site Plan. The developer shall be responsible for notifying, in writing, of the submission of a conceptual subdivision plan to the last known President on file with the County Planning Department of the Gates Bluff Homeowners' Association, no later than twenty-one (21) days prior to approval or disapproval of the plan. The developer shall provide a copy of the notification letter to the Planning Department. (P)
9. Lot Area. A minimum of 22,500 square feet of each lot shall be exclusive of flood plains, resource protection areas, easements in excess of fifty (50) feet in width and buffers. Such required lot area shall be contiguous to and inclusive of the building envelope and located adjacent to the required street frontage. Buffers shall not be included in lots. (P)

In response to questions from Mr. Bass, Mr. McCracken stated traffic generated by the development would be traveled along Beach Road which has little or no shoulders, fixed objects adjacent to the edge of pavement, and horizontal alignments; that there were no projects in the area currently included in the VDOT Six-Year Improvement Program; and although the applicant had proffered to contribute cash towards mitigating the traffic impact of the development, staff could not support the request without a commitment to provide a left turn lane along Beach Road at the public road intersection.

The vote on Mr. Wilson's motion was as follows:

AYES: Messrs. Gecker and Wilson.
NAYS: Messrs. Gulley and Bass.
ABSENT: Mr. Litton.

Mr. Robinson noted that due to the tie vote and there being no other motion, in accordance with Commission By-Laws, Case 07SN0298 automatically carried over to the August 21, 2007, Planning Commission public hearing.

07SN0336: In Matoaca Magisterial District, **360 CAPITAL PARTNERSHIP, LLC** requested Conditional Use and amendment of zoning district map to permit multifamily and townhouse uses plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use. This request lies in a Regional Business (C-4) District on

71.9 acres fronting approximately 1,600 feet on the east and west lines of Lonas Parkway approximately 1,000 feet south of Hull Street Road. Tax IDs 737-678-8211; 737-679-1634; 738-679-Part of 1556; and 738-680-Parts of 2767 and 8161.

Mr. Clay presented an overview of the request and staff's recommendation for denial, noting the current zoning allowed more high density residential than the *Plan* would suggest as appropriate; the applicant is seeking credits for a housing program ("affordable" or "workforce" housing) that currently does not exist and it would be inappropriate to grant credits for an "affordable" or "workforce" housing program that the County currently does not have. and security concerns expressed by the Police Department have not been addressed.

Mr. Jim Theobald, the applicant's representative, did not accept staff's recommendation, noting the proposal would provide improved and classic transitional zoning; significant road improvements; reduced traffic volumes in the area; the request represented in-fill development; and the current market indicated that residential development in the area would be more appropriate than additional retail development.

No one came forward to speak in favor of, or in opposition to, the request.

In response to questions from Mr. Bass, Ms. Carol Judkins indicated it would be inappropriate to grant credits for an "affordable" or "workforce" housing program that the County currently does not have.

Mr. Theobald withdrew the last sentence of the third paragraph in Proffered Condition 3(b) relating to an "affordable" or "workforce" housing program.

Mr. Bass stated the proposed road system was excellent and believed the other improvements would be provided; area residents did not object to the proposal; and he felt a recommendation for approval was appropriate.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 07SN0336 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

The property owner and applicant in this case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration will be developed according to the following proffers if, and only if, the request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

THE FOLLOWING CONDITIONS, AS WELL AS THE CONDITIONS OF CASE NOS. 95SN0197 AND 97SN0239 AS AMENDED HEREIN, SHALL ONLY APPLY TO THE DEVELOPMENT OF RESIDENTIAL USES AS PERMITTED AND REGULATED PURSUANT TO THE CONDITIONAL USE AND CUPD REQUESTED HEREWITH. TO THE EXTENT NOT UTILIZED FOR SUCH RESIDENTIAL PURPOSES, THE CONDITIONS OF CASE NOS. 95SN0197 AND 97SN0239 SHALL CONTINUE TO APPLY.

1. Master Plan. The Textual Statement dated July 6, 2007 shall be the Master Plan. (P)

2. Uses. Only the following uses shall be permitted on the Property:
- a. model homes as restricted in the R-88 District;
 - b. condominiums, attached or detached, which shall be submitted to the provisions of the Virginia Condominium Act, and uses customarily accessory thereto;
 - c. townhomes and uses customarily accessory thereto;
 - d. recreational facilities and grounds primarily serving this development subject to the following requirements:
 - i. With the exception of playground areas which accommodate swings, jungle gyms, or similar facilities and tennis courts, any outdoor play fields, community swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from adjacent properties zoned or designated on the County's Comprehensive Plan for residential use, a minimum of one hundred (100) feet from any existing or proposed single family residential lot line, and a minimum of fifty (50) feet from any existing or proposed road.
 - ii. Within the one hundred (100) and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed road. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
 - iii. Any playground areas (i.e. areas accommodating swings, jungle gyms or similar such facilities) and tennis courts shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
 - iv. Nothing within this condition shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
 - v. There shall be no outside public address system.
 - vi. The location of all active recreational uses shall be identified in conjunction with the submittal of tentative subdivision and/or site plans.
 - vii. Active recreational area(s) shall be identified on the record plat and/or site plan along with the proposed recreational uses and required conditions.
 - e. sales office(s) located in modular unit(s). (P)

3. Cash Proffer. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, prior to the issuance of a building permit, for infrastructure improvements within the service district for the Property:
- a. \$15,600.00 per dwelling unit, if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$15,600.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007.
 - b. Provided, however, that if any building permits issued on the Property are for senior housing, as defined in the proffer on age-restriction, the applicant, subdivider, or assignee(s) shall pay \$10,269.00 per dwelling unit if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$10,269.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. At the time of payment, the \$10,269.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915 for roads, and \$404 for fire stations. Payments in excess of \$10,269.00 shall be prorated as set forth above.
- Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
- Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the County. (B&M)
4. Age Restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designated as age-restricted shall be restricted to "housing for older persons" as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein. Any lots for age-restricted dwelling units shall be grouped together on a particular portion of the Property and shall not be scattered among other residential units. At the time of recordation of a subdivision plat or the approval of any site plan, the lots and/or dwelling units shall also note the restriction. To the extent a subdivision plat is not required, the age restriction shall be recorded as a restrictive covenant prior to site plan approval. (P)
5. Deletion of Proffered Conditions. Proffered Conditions 10, 11 and 14 of Case No. 95SN0197 are hereby deleted. (P)

AYES: Messrs. Gecker, Gulley, Wilson and Bass.
ABSENT: Mr. Litton.

VII. COMPREHENSIVE PLAN AMENDMENT.

◆ PROPOSED UPPER SWIFT CREEK PLAN AMENDMENT AND RELATED ORDINANCES.

Mr. Jimmy Bowling made a presentation of the Draft *Upper Swift Creek Plan Amendment* and related Ordinances, to include an overview of goals, notes, key findings and recommendations, a comparison of current and proposed land uses, existing zoning and development patterns and elements of the accompanying proposed Ordinance Amendments. He noted County staff was present to address questions/concerns relative to transportation and water quality.

Mr. Gecker opened the discussion for public comment.

Mr. Ryland Reamy; Mr. Bruce Moseley; Ms. Myrna McCaffery; Mr. Peter Martin; Ms. Betty Hunter-Clapp; Mr. James Theobald; Ms. Kathy Monroe; Mr. Tom Haustera; Ms. Kitty Snow; Dr. Tom Pakurar; Mr. Stuart Holmes; Mr. Mike Hatton; Mr. William Shewmake; Mr. David Anderson; Ms. Marleen Durfee; Mr. Forrest Clapp; Mr. Tim Riggan; Mr. Bob Sheaffer; Mr. John Easter; Mr. David Reel; Ms. Leigh Dillar; Mr. Chris Salle'; Ms. Karen Brooks; Mr. Reuben Waller; and Mr. Andy Scherzer, area landowners, residents and/or developers; voiced opposition to the proposed *Plan*, citing concerns relative to density; land use designations; the "deferred growth" area delineated in the proposed *Plan* resulting in an infringement upon citizens' rights to develop their property; encroachment of development into the residential community; deferral of the *Plan* to allow the public a thorough review of the proposal; the lack of public services and infrastructure to accommodate continued area development; the lack of notification to all agricultural property owners in the region; the impact the proposed Ordinance Amendments would have relative to buffer, transportation and water quality requirements; no commercial development along Genito Road; the unintended consequences of the *Plan* that would create sprawl; and concerns that the *Plan* was too strict, burdensome to landowners and favored developers over property owners.

Mr. Charles F. Payne, a Moseley resident, expressed concerns regarding the encroachment of development adjacent to his property but he supported the deferred growth area for five (5) years to allow infrastructure to catch up with growth and the recommended Powhite interchange alignment at Genito Rd.

There being no one else to speak, the public hearing was closed.

The Commission recessed at 9:31 p. m.

The Commission reconvened at 9:38 p. m.

In response to questions from the Commission, Mr. McElfish addressed concerns/answered questions relative to environmental and water quality concerns.

Mr. Bass stated there were many questions that still needed to be answered but could not be addressed given the constraints placed on the Commission by the Board. He stated the goal of the "deferred growth area" was to slow down growth so infrastructure needs could catch up; that he did not know if the Powhite Parkway Extension would be constructed in his lifetime but the route delineated on the *Thoroughfare Plan* would not necessarily be the actual route constructed; and that he felt the "no net increase in phosphorous runoff" from undeveloped land would be difficult but achievable and was needed for the protection of the

reservoir. He stated he felt the goals of the proposed *Plan* were good but there were no standards and/or levels of service to support the goals; that without the standards the proposed *Plan* was meaningless; and he felt the proposed *Plan* was not ready to go forward as submitted.

Mr. Gulley cited the chronological events relative to the timeframe within which the Commission had been requested by the Board of Supervisors to forward a recommendation on the proposed *Upper Swift Creek Plan* Amendment; listed concerns regarding the water quality elements of the proposal; stated he also felt the goals of the proposed *Plan* were good but there were no standards and/or levels of service to support the goals; that without the standards the proposed *Plan* was meaningless; and he felt the proposed *Plan* was not ready to go forward as submitted

Mr. Wilson stated he concurred with many of the speakers, noting he felt the proposed *Plan* was flawed, particularly with respect to the "deferred growth" area designation and he could not support the proposed *Plan* in its current posture.

Mr. Gecker stated he felt the *Plan*, as proposed, was inconsistent with the *Plan* goals; cited inequities with respect to proposed uses; noted he felt the study regarding the "deferred growth" area was inadequate; and stated he did not support the proposed *Plan*.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to recommend an amendment to the proposed *Upper Swift Creek Plan* that provided for of service standards for roads, as follows:

All rezoning applications are expected to pass a test for Adequate Road Facilities. A proposed rezoning does not pass the test for Adequate Road Facilities if the nearest major road and/or existing signalized intersection that will carry the majority of the traffic expected to be generated by the future development on the property proposed to be rezoned will have a Level of Service ("LOS") of "E" or "F". The LOS shall be determined by the Chesterfield Department of Transportation or designee based on current traffic studies and other reliable traffic data. Further, a proposed rezoning will pass the test for Adequate Road Facilities only if roads to be impacted by the proposed development have adequate shoulders, or where roads with inadequate shoulders are carrying, or are projected to carry, less than 4,000 vehicles per day.

Mr. Robinson advised the Commission that while it was permissible to include level of service language for roads in the Comprehensive Plan, there would need to be uniform application by the Board of Supervisors for those standards to be legally defensible.

AYES: Messrs. Gecker, Gulley and Bass.
NAYS: Mr. Wilson.
ABSENT: Mr. Litton.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to recommend an amendment to the proposed *Upper Swift Creek Plan* that provided for level of service standards for public schools, as follows:

- a. All residential rezoning applications are expected to pass the test for Adequate School Facilities. A proposed residential rezoning will pass the test for Adequate School Facilities if all public elementary, middle and high schools that would serve the future development

on the property proposed for residential rezoning currently have adequate capacity to accommodate additional students to be generated by the proposed rezoning. Schools shall be responsible for determining 1) the current enrollment for each school; 2) the capacity of each school; and 3) the anticipated impact of the proposed development based on the maximum number and type of residential dwelling units or lots, including proffers for limited or delayed development.

- b. If any of the applicable public schools which would serve the future residential development on the subject property exceed 120% of capacity at the time of the review of the subject rezoning request, the proposed rezoning does not pass the test for Adequate School Facilities. In addition, the proposed rezoning will not pass the test for Adequate School Facilities if the anticipated enrollment at any school to serve the subject rezoning will exceed 120% of capacity upon the development of 1) the property proposed for rezoning; and 2) all unimproved residential lots in the service area shown on approved preliminary site plans, preliminary subdivision plans and construction plans.

- c. When the capacity of any public school in the service area is determined to exceed 120% under the conditions described above, and where such school is expected to be improved to less than 120% of capacity within one year of the date that the Board of Supervisors is scheduled to consider the subject rezoning request, the residential rezoning will pass the test for Adequate School Facilities.

Mr. Robinson advised that his comments regarding level of service standards for roads would also apply to level of service standards for schools.

AYES: Messrs. Gecker, Gulley and Bass.
NAYS: Mr. Wilson.
ABSENT: Mr. Litton.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission resolved to recommend an amendment to the proposed *Upper Swift Creek Plan* that provided commercial uses, including neighborhood convenience, retail, restaurant and personal service uses, are appropriate for properties located on the south side of Route 360 between Route 288 and Winterpock Road between the AT&T easement and Route 360 provided there is a buffer between the commercial and residential uses.

AYES: Messrs. Gecker, Gulley, Wilson and Bass.
ABSENT: Mr. Litton.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission resolved to recommend denial of the overall proposed *Upper Swift Creek Plan*, as amended.

AYES: Messrs. Gecker, Gulley, Wilson and Bass.
ABSENT: Mr. Litton.

Further, the Commission proceeded to consider and recommend the following actions relative to the accompanying proposed Ordinance Amendments:

On motion of Mr. Wilson, seconded by Mr. Bass, the Commission resolved to recommend denial of an Ordinance to amend the Code of the County Of Chesterfield, 1997, as amended, by amending and re-enacting Section 19-238 of the Zoning Ordinance relating to water quality requirements in the Upper Swift Creek Watershed.

AYES: Messrs. Gecker, Gulley, Wilson and Bass.
ABSENT: Mr. Litton.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission resolved to recommend denial of an Ordinance to amend the Code of the County Of Chesterfield, 1997, as amended, by amending and re-enacting Sections 17-72, 17-84, 18-63 and 18-64 relating to mandatory sewer and water connections in the *Upper Swift Creek Plan Area*.

AYES: Messrs. Gulley and Bass.
NAYS: Messrs. Gecker and Wilson.
ABSENT: Mr. Litton.

Mr. Robinson pointed out that a tie vote indicated the motion did not pass and accordingly the Commission did not make a recommendation regarding the proposed Ordinance Amendment. He stated if there were no alternative motion the item would proceed to the Board of Supervisors for consideration without a recommendation.

On motion of Mr. Wilson, seconded by Mr. Gecker, the Commission resolved to recommend denial of an Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by enacting Sections 17-72.1, 18-64.1 and 18-64.2 of the Subdivision and Utility Ordinances relating to utilities in the *Upper Swift Creek Plan*.

AYES: Messrs. Gecker and Wilson.
NAYS: Messrs. Gulley and Bass.
ABSENT: Mr. Litton.

Mr. Robinson again noted that a tie vote indicated the motion did not pass and accordingly the Commission did not make a recommendation regarding the proposed Ordinance Amendment. He stated if there were no alternative motion the item would proceed to the Board of Supervisors for consideration without a recommendation.

After a brief discussion, the Commission recalled the proposed Ordinance relating to mandatory sewer and water connections in the *Upper Swift Creek Plan Area* for consideration.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission resolved to recommend approval of an Ordinance to amend the Code of the County Of Chesterfield, 1997, as amended, by amending and re-enacting Sections 17-72, 17-84, 18-63 and 18-64 relating to mandatory sewer and water connections in the *Upper Swift Creek Plan Area*, as follows:

(1) That Sections 17-72, 17-84, 18-63 and 18-64 of the Code of the County of Chesterfield, 1997, as amended, be amended and re-enacted to read as follows:

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Sec. 17-72. Improvements--Required.

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- (k) Connection to the county water supply system shall be required in any of the following circumstances except as may be waived by the planning commission per County Code section 18-63:

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- (7) When a lot is located within the area of the Upper Swift Creek Plan and suggested for any use other than Deferred Growth, unless residential zoning was obtained for such subdivision prior to (date of adoption).

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- (n) Connection to the county wastewater supply system shall be required in any of the following circumstances except as may be waived by the planning commission per County Code section 18-64:

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- (7) When a lot is located within the area of the Upper Swift Creek Plan and suggested for any use other than Deferred Growth, unless residential zoning was obtained for such subdivision prior to (date of adoption).

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Sec. 17-84. Standards for lots and parcels served by onsite sewage disposal systems.

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- (g) No subdivision of land within the Upper Swift Creek Plan for which residential zoning is obtained after (date of adoption) may utilize onsite wastewater disposal systems unless all lots in such subdivision are at least one acre in size.

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Sec. 18-63. Mandatory water connections in certain areas.

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(e) All structures which are located on property that is included in the Upper Swift Creek Plan and suggested for any use other than Deferred Growth and which received zoning approval after (date of adoption) shall connect to the water system. However, the following structures shall not be required to connect unless connection to the water system is otherwise required by law:

- (1) Temporary manufactured or mobile homes;
- (2) Structures that were authorized by conditional uses or special exceptions which were renewed after (date of adoption);
- (3) Structures that are authorized by conditional uses or special exceptions that were granted after (date of adoption) if the use that is permitted by the conditional use or special exception is incidental to a principal use that was previously allowed with a private well;
- (4) Governmental structures and institutional buildings; and
- (5) Residences that are located on lots that are exempt from the requirements of the subdivision ordinance.

(e) (f) For purposes of this section "structure" and "institutional building" shall have the same meaning as in the zoning ordinance

(f) (g) The planning commission may grant exceptions to subsections (b) and (c) during schematic plan, site plan or tentative subdivision review. The planning commission may also grant exceptions to subsections (b), (c), ~~and (d) and (e)~~ to an applicant who files an application with the planning department on a form prescribed by the director of planning and who pays a fee of \$260.00 to the planning department, if the applicant is not subject to the schematic, site plan or subdivision review process. The planning commission shall find that:

- (1) The use of a private well will not adversely affect the ability to extend public water to other property;
- (2) The use of a private well will not encourage future development that is inconsistent with the comprehensive plan; and
- (3) The use of a private well is not reasonably likely to adversely affect the public health, safety or welfare.

The planning commission may impose conditions to mitigate the impact of any exception that it grants.

Sec. 18-64. Mandatory wastewater connection in certain areas.

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(d) All structures which are located on property that is included in the Upper Swift Creek Plan and suggested for any use other than Deferred Growth and which received zoning approval after (date of adoption) shall connect to the wastewater system. However, the following structures shall not be required to connect unless connection to the wastewater system is otherwise required by law:

- (1) Temporary manufactured or mobile homes;
- (2) Structures that were authorized by conditional uses or special exceptions which were renewed after (date of adoption);

- (3) Structures that are authorized by conditional uses or special exceptions that were granted after (date of adoption) if the use that is permitted by the conditional use or special exception is incidental to a principal use that was previously allowed with a septic system;
- (4) Governmental structures and institutional buildings; and
- (5) Residences that are located on lots that are exempt from the requirements of the subdivision ordinance.

~~(d)~~ (e) For purposes of this section, "structure," "single-family dwelling" and "institutional building" shall have the same meaning as in the zoning ordinance.

~~(e)~~ (f) The planning commission may grant exceptions to subsections (a), (b), ~~and (c)~~ and (d) during schematic plan, site plan or tentative subdivision review. The planning commission may also grant exceptions to subsections (a), (b), ~~and (c)~~ and (d) to an applicant who files an application with the planning department on a form prescribed by the director of planning and who pays a fee of \$260.00 to the planning department, if the applicant is not subject to the schematic, site plan or subdivision review process. The planning commission shall find that:

- (1) The use of an on-site disposal system will not adversely affect the ability to extend public wastewater sewer to other property;
- (2) The use of an on-site disposal system will not encourage future development that is inconsistent with the comprehensive plan; and
- (3) The use of an on-site disposal septic system is not reasonably likely to adversely affect the public health, safety or welfare.

The planning commission may impose conditions to mitigate the impacts of any exception that it grants.

(2) *That these ordinances become effective immediately upon adoption.*
(1925(23):69764.1; Revised 8/12/05 @ 10:47 a.m.)

AYES: Messrs. Gecker, Gulley, Wilson and Bass.
ABSENT: Mr. Litton.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend denial of an Ordinance to amend the Code of the County Of Chesterfield, 1997, as amended, by amending and re-enacting Sections 17-62, 17-70 and 17-83 of the Subdivision Ordinance relating to buffer conditions in the *Upper Swift Creek Plan*.

AYES: Messrs. Gecker, Gulley, Wilson and Bass.
ABSENT: Mr. Litton.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend denial of an Ordinance to amend the Code of the County Of Chesterfield, 1997, as amended, by amending and re-enacting Sections 19-520, 19-522 and 19-523 of the Zoning Ordinance relating to buffers.

AYES: Messrs. Gecker, Gulley, Wilson and Bass.
ABSENT: Mr. Litton.

VIII CITIZEN COMMENTS ON UNSCHEDULED MATTERS – CONTINUED.

There were no citizen comments on unscheduled matters at this time.

IX. ADJOURNMENT.

There being no further business to come before the Commission, it was on motion of Mr. Bass, seconded by Mr. Wilson, that the meeting adjourned at 10:30 p. m. to August 21, 2007, at 12:00 Noon in the Multipurpose Meeting Room of the Chesterfield County Community Development Building, 9800 Government Center Parkway, Chesterfield, VA.

AYES: Messrs. Gecker, Gulley, Wilson and Bass.
ABSENT: Mr. Litton.

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